

CLOSED,APPEAL,INTERPRETER,LC-1,SPS,TRANSF

**U.S. District Court**  
**Eastern District of Oklahoma (Muskogee)**  
**CRIMINAL DOCKET FOR CASE #: 6:04-cr-00033-JFH-1**

Case title: United States of America v. Torres et al

Date Filed: 03/10/2004

Date Terminated: 01/21/2005

Assigned to: District Judge John F. Heil,  
III

Appeals court case numbers: 05-7013,  
16-7017 10th Circuit

**Defendant (1)**

**Nelson Chamizo Torres**  
*TERMINATED: 04/01/2005*

represented by **Nelson Chamizo Torres**  
04253-063  
Adams County Correction Center  
FCC  
PO Box 1600  
Washington, MS 39190  
PRO SE

**Julia L. O'Connell**  
Federal Public Defender – Muskogee  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*  
*Designation: Public Defender or*  
*Community Defender Appointment*

**Roger Hilfiger**  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*  
*Designation: Retained*

**Michael A. Abel**  
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*TERMINATED: 04/05/2004*  
*Designation: Public Defender or*  
*Community Defender Appointment*

**Pending Counts**

None

**Highest Offense Level (Opening)**

None

**Terminated Counts**

21:841(a)(1) & 18:2 – Possession with  
intent to Distribute cocaine.  
(1)

**Highest Offense Level (Terminated)**

Felony

**Complaints**

None

**Disposition**

**Disposition**

01/21/05: Imprisonment for 210 months;  
Supervised Release for 48 months; Special  
Assessment of \$100.00.

**Disposition**

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**Plaintiff**

**United States of America**

represented by **Christopher J. Wilson**  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

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*TERMINATED: 11/25/2014*

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*ATTORNEY TO BE NOTICED*

Date Filed	#	Page	Docket Text
03/10/2004	1		INDICTMENT by USA Counts filed against Nelson Chamizo Torres (1) count(s) 1, Laura Maria Morales (2) count(s) 1 (trl, Deputy Clerk) (Entered: 03/10/2004)
03/10/2004			ORDER by Mag. Judge Steven P. Shreder directing warrants of arrest be issued for both defendants (SPS) (trl, Deputy Clerk) (Entered: 03/10/2004)
03/10/2004			ARREST Warrant issued for Nelson Chamizo Torres (copy of Indictment & Arraignment notice attached) (trl, Deputy Clerk) (Entered: 03/10/2004)
03/10/2004			NOTICE Arraignment set for 2:00 p.m. on 3/23/04 as to Nelson Chamizo Torres & Laura Maria Morales before Judge Steven P. at the U.S. Courthouse, 5th and Okmulgee Streets, Muskogee, OK (cc: all counsel) (trl, Deputy Clerk) (Entered: 03/10/2004)
03/11/2004	2		MOTION for WRIT OF HABEAS CORPUS AD PROSEQUENDUM by plaintiff USA as to Nelson Chamizo Torres (law, Deputy Clerk) (Entered: 03/13/2004)
03/12/2004	3		ORDER by District Judge James H. Payne granting plaintiff's motion for WRIT OF HABEAS CORPUS AD PROSEQUENDUM as to defendant Nelson Chamizo Torres [2-1] (cc: all counsel) (law, Deputy Clerk) (Entered: 03/13/2004)
03/12/2004			WRIT OF HABEAS CORPUS AD PROSEQUENDUM issued for defendant Nelson Chamizo Torres (law, Deputy Clerk) (Entered: 03/13/2004)
03/12/2004	5		ORDER by District Judge James H. Payne granting plaintiff's motion for WRIT OF HABEAS CORPUS AD PROSEQUENDUM as to defendant Laura Maria Morales [4-1] (cc: all counsel) (law, Deputy Clerk) (Entered: 03/13/2004)
03/23/2004			Said cause came on for arraignment before Hon. Steven P. Shreder. Government present by Asst. U.S. Attorney Dennis Fries. Defendant TORRES present in person and with appointed counsel Michael A. Abel, Asst. Federal Public Defender. Court Reporter: km. Court Room Deputy: ct. No objection to financial affidavit. Court appoints Michael A. Abel to represent defendant. Defendant requests an interpreter. ENTERING ORDER resetting defendant's arraignment for 3/24/04 at 9:00 a.m. (SPS) (cjt, Deputy Clerk) (Entered: 03/23/2004)
03/23/2004			NOTICE: Arraignment is reset for 3/24/04 at 9:00 a.m. for Nelson Chamizo Torres before Magistrate Judge Steven P. Shreder at the U.S. Courthouse, 5th and Okmulgee Streets, Muskogee, OK (cc: all counsel) (cjt, Deputy Clerk) (Entered: 03/23/2004)

03/23/2004	6		ORDER by Mag. Judge Steven P. Shreder appointing Federal Public Defender to represent defendant Nelson Chamizo Torres (cc: all counsel) (cjt, Deputy Clerk) (Entered: 03/24/2004)
03/24/2004			INITIAL APPEARANCE/ARRAIGNMENT MINUTES before Hon. Steven P. Shreder. Government present by Asst. U.S. Attorney Dennis Fries. Defendant TORRES present in person and with appointed counsel Michael A. Abel, Asst. Federal Public Defender. Interpreter: Linda Claudio. Court Reporter: taped proceeding. Court Room Deputy: ct. Interpreter sworn. Court noted that Michael A. Abel was previously appointed to represent defendant. Michael Abel advised the court that Roger Hilfiger has been retained on state charges and he will check to determine if Mr. Hilfiger will handle this case. Court directed that the Order Appointing Counsel entered yesterday would be modified to reflect Michael Abel's appointment for arraignment only if Mr. Hilfiger is retained. Defendant acknowledges receipt of copy of indictment. Defendant advised of constitutional rights, charges, possible penalties, and right to counsel, and is duly arraigned; not guilty plea entered as to count 1 of the indictment. Pretrial Services Report – issue of bond is moot since defendant is here on a writ. Jury trial set for 5/3/04. Parties ordered to file Requested Jury Instructions, Voir Dire, Verdict Forms and Trial Briefs by 4/23/04 at 12:00 Noon, or counsel must submit a notice of intent to plea. Trial Briefs of each party should include the estimated length of trial and the number of anticipated witnesses. The defendant has 11 days in which to file motions with government having 5 days to respond. Defendant is remanded to custody of the U.S. Marshal. (SPS) (cjt, Deputy Clerk) (Entered: 03/25/2004)
03/25/2004	7		ARREST Warrant returned executed as to defendant Nelson Chamizo Torres; defendant arrested on 3/23/04 (cjt, Deputy Clerk) (Entered: 03/25/2004)
03/25/2004			NOTICE: Jury Trial is set for 5/3/04 at 9:00 a.m. for Nelson Chamizo Torres before Judge James H. Payne at the U.S. Courthouse, 5th and Okmulgee Streets, Muskogee, OK (cc: all counsel) (cjt, Deputy Clerk) (Entered: 03/25/2004)
03/31/2004	8		MOTION to withdraw as attorney of record by Michael A. Abel for defendant Nelson Chamizo Torres (cjt, Deputy Clerk) (Entered: 03/31/2004)
04/02/2004	9		ENTRY OF APPEARANCE for defendant Nelson Chamizo Torres by Attorney Roger Hilfiger (cjt, Deputy Clerk) (Entered: 04/05/2004)
04/02/2004	10		MOTION to suppress by defendant Nelson Chamizo Torres (cjt, Deputy Clerk) (Entered: 04/05/2004)
04/02/2004	11		ORDER by District Judge James H. Payne granting motion to withdraw as attorney of record by Michael A. Abel [8–1] for defendant Nelson Chamizo Torres (cc: all counsel) (cjt, Deputy Clerk) (Entered: 04/05/2004)
04/05/2004	12		MINUTE ORDER before District Judge James H. Payne referring motion to suppress of defendant Nelson Chamizo Torres [10–1] to Magistrate Judge Steven P. Shreder for hearing and Findings and Recommendations. (JHP) (cc: all counsel) (cjt, Deputy Clerk) (Entered: 04/05/2004)
04/06/2004	13		MINUTE ORDER before District Judge James H. Payne: Parties are ordered to file Requested Jury Instructions, Voir Dire, Verdict Forms and Trial Briefs by 4/23/04 at 12:00 noon, OR counsel must submit a Notice of Intent to Plea. Trial

			Briefs of each party should include the estimated length of trial and the number of anticipated witnesses. (JHP) (cc: all counsel) (nrh, Deputy Clerk) (Entered: 04/06/2004)
04/07/2004			NOTICE: Suppression hearing is set for 4/12/04 at 2:00 p.m. for Nelson Chamizo Torres before Magistrate Judge Steven P. Shreder at the U.S. Courthouse, 5th and Okmulgee Streets, Muskogee, OK (cc: all counsel) (cjt, Deputy Clerk) (Entered: 04/07/2004)
04/09/2004	14		RESPONSE by plaintiff to defendant Nelson Chamizo Torres' motion to suppress [10-1] (cjt, Deputy Clerk) (Entered: 04/12/2004)
04/12/2004			MOTION TO SUPPRESS MINUTES before Honorable Steven P. Shreder. Plaintiff present by Asst. U.S. Attorney Dennis Fries. Defendant TORRES present in person and by retained counsel Roger Hilfiger. Sebastian Lantos, Interpreter. Courtroom Deputy: ct. Court Reporter: mb. Interpreter sworn. Government's evidence. Defendant offers no further evidence. Parties rest. Arguments of counsel. Court takes the motion to suppress under advisement. (SPS) (cjt, Deputy Clerk) (Entered: 04/13/2004)
04/23/2004	<u>15</u>		REPORT AND RECOMMENDATION by Mag. Judge Steven P. Shreder recommending Motion by Defendant Nelson Chamizo Torres to Suppress (Docket Entry #10) be in all things DENIED (cc: all counsel) (nrh, Deputy Clerk) (pjw, Deputy Clerk). (Entered: 04/23/2004)
04/23/2004	16		JURY TRIAL BRIEF by defendant Nelson Chamizo Torres (law, Deputy Clerk) (Entered: 04/26/2004)
04/27/2004	17		MOTION for continuance of jury trial by plaintiff USA as to Nelson Chamizo Torres, Laura Maria Morales (cjt, Deputy Clerk) (Entered: 04/28/2004)
04/28/2004	18		MINUTE ORDER before District Judge James H. Payne granting plaintiff's motion for continuance of jury trial [17-1]. The Court continues the trial as to defendants Nelson Chamizo Torres and Laura Maria Morales in this matter heretofore set on 5/3/04 to 6/7/04. Due to the fact that defendant Morales was just arrested and arraigned on 4/27/04 and there is a pending motion for suppression as to defendant Torres, the Court hereby finds that the ends of justice outweigh the interest of the public and the Defendants to a speedy trial and therefore the period of time occasioned by this delay from 5/3/04 until 6/7/04 is excludable pursuant to 18 U.S.C. Section 3161(h)(1)(J), (h)(7) and (h)(8)(A). (JHP) (cc: all counsel) (law, Deputy Clerk) (Entered: 04/28/2004)
05/04/2004	20		RECEIPT of plaintiff of Report and Recommendation of U.S. Magistrate Judge – received 4/23/04. Objections due 5/7/04. (cjt, Deputy Clerk) (Entered: 05/06/2004)
05/06/2004	21		RECEIPT by defendant Torres of Report and Recommendation of U.S. Magistrate Judge – received 4/26/04. Objections due 5/10/04. (cjt, Deputy Clerk) (Entered: 05/10/2004)
05/13/2004	22		PRAECIPE by plaintiff and issuing 20 blank subpoenas for 6/7/04 at 9:00 a.m. (cjt, Deputy Clerk) (Entered: 05/13/2004)
05/17/2004	<u>23</u>		ORDER by District Judge James H. Payne adopting the REPORT AND RECOMMENDATION by Mag. Judge Steven P. Shreder recommending Motion by Defendant Nelson Chamizo Torres to Suppress be in all things

		DENIED [15-1] and denying motion to suppress [10-1] (cc: all counsel) (cjt, Deputy Clerk) (pjw, Deputy Clerk). (Entered: 05/18/2004)
05/20/2004	24	MINUTE ORDER before District Judge James H. Payne: Directing the parties to file Requested Jury Instructions, Voir Dire, Verdict Forms and Trial Briefs by 5/27/04 at 12:00 noon, OR counsel must submit a Notice of Intent to Plea. Trial Briefs of each party should include the estimated length of trial and the number of anticipated witnesses. (JHP) (cc: all counsel) (cjt, Deputy Clerk) (Entered: 05/20/2004)
05/27/2004	25	TRIAL BRIEF by plaintiff (cjt, Deputy Clerk) (Entered: 05/27/2004)
05/27/2004	26	PROPOSED Voir Dire by plaintiff (cjt, Deputy Clerk) (Entered: 05/27/2004)
05/27/2004	27	PROPOSED JURY INSTRUCTIONS submitted by plaintiff (cjt, Deputy Clerk) (Entered: 05/27/2004)
05/28/2004		NOTICE: Change of Plea is set for 6/1/04 at 2:30 p.m. for Nelson Chamizo Torres before Magistrate Judge Steven P. Shreder at the U.S. Courthouse, 5th and Okmulgee Streets, Muskogee, OK (cc: all counsel) (cjt, Deputy Clerk) (Entered: 05/28/2004)
06/01/2004		CHANGE OF PLEA MINUTES before Hon. Steven P. Shreder. Plaintiff present by Asst. U.S. Attorney Dennis Fries. Defendant TORRES present in person and by retained counsel Roger Hilfiger. Courtroom Deputy: ct. Court Reporter: km. Interpreter: Sebastian Lantos. Interpreter sworn. Defendant sworn. CONSENT TO PROCEED BEFORE U.S. MAGISTRATE JUDGE FOR CHANGE OF PLEA IN A FELONY CASE executed by defendant. Defendant advised of right to counsel, constitutional rights, charges and penalties Defendant enters a plea of guilty as to Count 1 of the Indictment. Oral plea agreement disclosed. WAIVER OF JURY TRIAL executed and filed. ENTERING ORDER: Court finds defendant is mentally competent to understand the nature of the proceedings and charges against him. The court accepts the defendant's guilty plea and finds the defendant guilty as charged in Count 1 of the Indictment. The matter is referred to the Probation Office for presentence report. Defendant advised this is a mandatory detention case. Defendant is remanded to custody of the U.S. Marshal. (SPS) (cjt, Deputy Clerk) (Entered: 06/03/2004)
06/01/2004	28	CONSENT TO PROCEED before U.S. Magistrate Judge for change of plea in a felony case by defendant Nelson Chamizo Torres (cjt, Deputy Clerk) (Entered: 06/03/2004)
06/01/2004	29	WAIVER OF JURY TRIAL by defendant Nelson Chamizo Torres (cjt, Deputy Clerk) (Entered: 06/03/2004)
09/21/2004		NOTICE: SENTENCING set for 10/15/04 at 11:00 a.m. for Nelson Chamizo Torres , before Judge James H. Payne, South Courtroom, Second Floor, at the U.S. Courthouse, 5th and Okmulgee Streets, Muskogee, OK (cc: all counsel) (pyb, Deputy Clerk) (Entered: 09/21/2004)
10/13/2004	31	MOTION to continue sentencing set 10/15/04 by plaintiff USA as to Nelson Chamizo Torres (pyb, Deputy Clerk) (Entered: 10/13/2004)
10/13/2004	32	MINUTE ORDER before District Judge James H. Payne: At the direction of the Court, the Clerk called retained counsel for defendant Torres, Roger Hilfiger,



			and was advised that there was no objection from the defendant to the Government's motion to continue Sentencing. Accordingly, Government's motion to continue sentencing set 10/15/04 [31-1] is hereby GRANTED. SENTENCING is RESET for 11/10/04 at 3:30 p.m., as to Nelson Chamizo Torres, before Hon. James H. Payne, South Courtroom, Second Floor at the U.S.Courthouse, Fifth & Okmulgee Streets, Muskogee, Oklahoma . Interpreter has been called and time and date changed. (JHP) (cc: all counsel) (pyb, Deputy Clerk) (Entered: 10/13/2004)
11/10/2004			Said cause came on for Sentencing. Government present by Assistant U.S.Attorney Dennis Fries. Defendant NELSON CHAMIZO TORRES present in person and by retained counsel Roger Hilfiger. Interpreter Linda Ramirez present. (Before Hon. James H. Payne. Courtroom Deputy PB. Court Reporter KM. Law Clerk DG) Interpreter sworn. ENTERING ORDER Striking Sentencing set this date, to be reset at a later time. (JHP) (pyb, Deputy Clerk) (Entered: 11/11/2004)
11/10/2004	33		MINUTE ORDER before District Judge James H. Payne: STRIKING Sentencing set 11/10/04, to be reset at a later time. (JHP) (cc: all counsel) (pyb, Deputy Clerk) (Entered: 11/11/2004)
12/28/2004			NOTICE: SENTENCING is set for 1/13/05 at 2:30 p.m. for Nelson Chamizo Torres before Judge James H. Payne, Second Floor, South Courtroom, at the U.S. Courthouse, 5th and Okmulgee Streets, Muskogee, OK (cc: all counsel) (pyb, Deputy Clerk) (Entered: 12/28/2004)
01/12/2005			NOTICE: SENTENCING set for 1/13/05 is hereby STRICKEN AND RESET FOR Friday, 1/21/05 at 11:00 a.m. for Nelson Chamizo Torres before Judge James H. Payne, South Courtroom, Second Floor, at the U.S. Courthouse, 5th and Okmulgee Streets, Muskogee, OK (cc: all counsel and Interpreter) (pyb, Deputy Clerk) (Entered: 01/12/2005)
01/20/2005	34		SENTENCING MEMORANDUM by defendant Nelson Chamizo Torres (pyb, Deputy Clerk) (Entered: 01/20/2005)
01/21/2005			SENTENCING: Government present by Dennis Fries, Assistant U.S.Attorney. Defendant TORRES present in person and by retained counsel, Roger Hilfiger. Interpreter: Sebastian Lantos. (Before Hon. James H. Payne. Courtroom Deputy PB. Court Reporter KM. Law Clerk DG) Parties announce ready. Interpreter, Sebastian Lantos, sworn. After discussion with Court and counsel, all of defendant's objections to the Presentence Report are withdrawn by defendant. Government has no objections to the Presentence Report. Arguments of counsel regarding Enhanced Punishment under the provisions for Career Offender. ENTERING ORDER: The Court finds that defendant is subject to the enhanced punishment under the provisions of the advisory Sentencing Guidelines, section 4B1.1. Therefore, the defendant shall be sentenced according to the guidelines for Career Offender. (JHP) Defendant brought forward. Statements by defendant, Nelson Torres. Oral request by defendant counsel, Roger Hilfiger, for defendant to be given credit for jail time already served since arrest on the state court charges, and for court to recommend defendant be placed in the long term drug treatment program. Government does not object to the intensive drug treatment program. Statements of Government regarding length of term. JUDGMENT AND SENTENCE: In accordance with Title 18, Section 3553(a) of the United States Criminal Codes, it is the judgment of this Court that

defendant Nelson Chamizo Torres is hereby committed to the custody of the Bureau of Prisons to be imprisoned on Count 1 for a term of 210 months. I recommend that the Bureau of Prisons evaluate and determine if defendant is a suitable candidate for the Intensive Drug Treatment Program. Should defendant be allowed to participate in the program, it is further recommended that he be afforded the benefits prescribed and set out in 18 U.S.C. Section 3621(e) and according to Bureau of Prisons' policy. Upon release from confinement defendant shall be placed on supervised release for a term of 48 months on Count 1. Within 72 hours following defendant's release from the custody of the Bureau of Prisons, he shall report in person to the Probation Office in the District to which he is released. While on supervised release, defendant shall not commit another federal, state, or local crime, shall not possess any illegal controlled substance, shall not possess a firearm or destructive device and shall also comply with the standard conditions as set out on Probation Form 7A. As a condition of supervised release, defendant shall refrain from the unlawful use of controlled substances and submit to one drug test within 15 days of his release. Subsequent to the first test, defendant shall submit to at least two additional periodic drug tests. Defendant shall also cooperate in the collection of DNA as directed by the Probation Officer. Defendant shall also comply with the following special condition of supervised release: Defendant shall participate in a program approved by the United States Probation Office for the treatment of narcotic addiction, drug dependency, or alcohol dependency, which will include testing to determine if he has reverted to the use of drugs or alcohol. If it is determined by the Probation Officer that he is in need of a residential drug/alcohol treatment program, defendant shall participate in such treatment as directed by the Probation Officer and remain in the treatment facility until discharged. It is further ordered that defendant shall pay to the United States a Special Assessment of \$100 on Count 1. Said assessment shall be paid through the Office of the United States Court Clerk for the Eastern District of Oklahoma and is due immediately. A fine in this case has been considered, but will not be imposed based upon defendant's current financial profile and the uncertainty of his projected earning ability. REASONS FOR IMPOSING SENTENCE: In formulating the sentence imposed, this Court has considered the nature and circumstances of the offense as well as the characteristics and criminal history of the defendant. The Court has further taken into consideration the sentencing guideline calculations contained within the Presentence Report in addition to any objections, clarifications, additions or deletions to those guideline calculations identified in the addendum to the report or announced in open Court today. While the Court recognizes that it is not bound by the sentencing guideline calculations, the Court has considered them and finds them to be advisory in nature. Also taken into account when fashioning a sentence for this defendant is his cooperation with authorities and the timeliness of his plea in this case. The sentence prescribed by this Court reflects the seriousness of the offense, promotes respect for the law and provides just punishment for the offense. This sentence affords adequate deterrence to criminal conduct, protects the public from further crimes of this defendant and provides correctional treatment for the defendant in the most effective manner. (JHP) Defendant advised of right to appeal within 10 days, and counsel will continue to represent defendant until that decision is made. Oral motion of defendant for Court to consider the CJA Financial Affidavit submitted for filing, and stating defendant is indigent and request he be exempt from paying costs of filing an appeal. Granted by Court. (JHP) (pyb, Deputy Clerk) (Entered: 01/24/2005)



01/21/2005	35		CJA Form 23 (Financial Affidavit) as to Nelson Chamizo Torres for appeal purposes. (pyb, Deputy Clerk) (Entered: 01/24/2005)
01/24/2005			Marshal's return on: Writ HC AD Pros. executed as to Nelson Chamizo Torres: Deft. delivered from Muskogee County Jail to ED/OK District Court on 3/23/04, and returned to Muskogee County Jail on 3/23/04; Defendant received from Muskogee County Jail on 1/21/05 and delivered to ED/OK District Court, and then returned to Muskogee Co.Jail on 1/21/05. (pyb, Deputy Clerk) (Entered: 01/24/2005)
01/31/2005	<u>36</u>		JUDGMENT AND COMMITMENT as to Nelson Chamizo Torres by District Judge James H. Payne (cc: all counsel) (pyb, Deputy Clerk) (pjw, Deputy Clerk). (Entered: 01/31/2005)
01/31/2005	37		APPEAL Notice to USCA by defendant Nelson Chamizo Torres regarding Judgment entered 1/14/05 and filed 1/31/05 [36-1]; fees ifp; Preliminary Record on Appeal Forwarded to Circuit (cc:all counsel) (pyb, Deputy Clerk) (Entered: 02/01/2005)
01/31/2005	38		MOTION to proceed in forma pauperis on appeal by defendant Nelson Chamizo Torres (pyb, Deputy Clerk) (Entered: 02/01/2005)
02/01/2005	39		MINUTE ORDER before District Judge James H. Payne granting motion of defendant Torres to proceed in forma pauperis on appeal [38-1], as reflected in the minutes of Sentencing on 1/14/05. (JHP) (cc: all counsel) (pyb, Deputy Clerk) (Entered: 02/01/2005)
02/15/2005			APPEAL NUMBER received from USCA regarding [37-1] ( Appeal Number: 05-7013) (pyb, Deputy Clerk) (Entered: 02/15/2005)
02/15/2005	40		MOTION for appeal transcripts at government's expense by defendant Nelson Chamizo Torres (pyb, Deputy Clerk) (Entered: 02/15/2005)
02/15/2005	41		BRIEF by defendant Nelson Chamizo Torres in support of application for appeal transcript at government expense. (pyb, Deputy Clerk) (Entered: 02/15/2005)
02/15/2005	42		APPEAL Designation of Record requested by Nelson Chamizo Torres regarding [37-1] (pyb, Deputy Clerk) (Entered: 02/15/2005)
02/22/2005	43		MINUTE ORDER before District Judge James H. Payne granting defendant Torres' motion for appeal transcripts at government's expense [40-1], pursuant to 18 U.S.C. Section 3006A of the Criminal Justice Act. (JHP) (cc: all counsel) CJA 24 Vouchers to deft.counsel. (pyb, Deputy Clerk) Modified on 02/22/2005 (Entered: 02/22/2005)
03/21/2005			LETTER (Copy from Tenth Circuit) to Karla McWhorter, regarding Notice of Transcript Order with Court Reporter acknowledgment thron. (pyb, Deputy Clerk) (Entered: 03/21/2005)
03/23/2005	44		APPEAL Transcript Order Form (TOF) by court reporter Martha Butler est completion date 4/21/05 regarding [37-1] (Suppression hearing held 4/12/04) (pyb, Deputy Clerk) (Entered: 03/23/2005)
03/25/2005	45		APPEAL Transcript Order Form (TOF) by court reporter Karla McWhorter est completion date 4/14/05 for Sentencing Transcript held 1/21/05, regarding

			appeal [37-1] (pyb, Deputy Clerk) (Entered: 03/25/2005)
04/20/2005			TRANSCRIPT of proceedings for the following date(s): 1/21/05 (Re: Sentencing Hearing as to defendant Nelson Chamizo Torres [37-1]) by court reporter Karla McWhorter (cjt, Deputy Clerk) (Entered: 04/21/2005)
05/02/2005			TRANSCRIPT of proceedings for the following date(s): 4/12/04 Suppression Hearing (Re: [37-1] ) by court reporter Martha Butler. (pyb, Deputy Clerk) (Entered: 05/03/2005)
05/11/2005			APPEAL Record Transmitted to USCA regarding [37-1] appeal of Nelson Chamizo Torres, #05-7013. (pyb, Deputy Clerk) (Entered: 05/11/2005)
07/06/2005			Marshal's return on: J&C executed as to Nelson Chamizo Torres executed by delivering debt to FCC Yazoo Low at Yazoo City, MS on 5/18/05 (nrh, Deputy Clerk) (Entered: 07/06/2005)
09/07/2005			SPECIAL ASSESSMENT received on 9/7/05 (Paid to BOP 8/8/05), in the amount of \$ 100.00, receipt # IPAC. (Defendant Nelson Torres) (smg, Deputy Clerk) (Entered: 09/07/2005)
05/15/2006	<u>46</u>		DECISION from Circuit Court granting counsel's request to withdraw and dismissing the Appeal (Re: 37 Notice of Appeal to Circuit Court) as to Nelson Chamizo Torres (cjt, Deputy Clerk) (Entered: 05/15/2006)
07/18/2007			***Remark: Defendant filed a 2255 Motion to Vacate on 6/28/07. ALL FUTURE DOCUMENTS REGARDING PETITIONER'S 2255 MOTION ARE TO BE FILED IN CIV-07-198-JHPas to Nelson Chamizo Torres (cjt, Deputy Clerk) (Entered: 07/18/2007)
09/21/2007	47		RECORD on Appeal Returned from Circuit Court ( Returned record includes: Volume 1- Pleadings; Volume 2- 4/12/04 Transcript; Volume 3- 1/21/05 Transcript; Volume 4- Presentence Report. Broke down same.) (Re: 37 Notice of Appeal to Circuit Court) as to Nelson Chamizo Torres, Laura Maria Morales (jcb, Deputy Clerk) (Entered: 09/21/2007)
12/20/2007			***Comment: ORDER and JUDGMENT by Judge James H. Payne denying Motion to Vacate, Set Aside or Correct Sentence (2255) as to Nelson Chamizo Torres (See pleadings #12 and #13 filed in CIV-07-198-JHP) (sms, Deputy Clerk) (Entered: 06/06/2016)
11/17/2014	<u>48</u>		MOTION for Appointment of Counsel by Nelson Chamizo Torres. (lal, Deputy Clerk) (Entered: 11/17/2014)
12/01/2014	<u>49</u>		ATTORNEY APPEARANCE by Linda A. Epperley on behalf of United States of America (Epperley, Linda) (Entered: 12/01/2014)
01/23/2015	50		MINUTE ORDER by District Judge James H. Payne: granting <u>48</u> Motion for Appointment of Counsel of Defendant Nelson Chamizo Torres and appointing Julia O'Connell, Federal Public Defender, pursuant to General Order No. 14-02 filed 11/5/2014 and at the direction of the Court. (cjt, Deputy Clerk) (Entered: 01/23/2015)
11/12/2015	<u>51</u>		MOTION for Reduction of Sentence - USSC Amendment by Nelson Chamizo Torres, Pro Se (cjt, Deputy Clerk) (Entered: 11/13/2015)
11/23/2015	<u>52</u>		

		REPORT on Applicability of Retroactive Drug Amendment 782 re <u>51</u> MOTION for Reduction of Sentence – USSC Amendment as to <b>Nelson Chamizo Torres</b> . NOTE: This document will only be accessible to appropriate court staff, the government attorney and the attorney for the applicable defendant. Other defendants in the case and the general public will NOT be able to view this document. The Court considers this Report confidential information, and everyone who receives a copy of this document is responsible for any further disclosures. Parties should submit responses to this report by secure email in pdf format no later than December 9, 2015 to SUSPO Teague at <a href="mailto:Trina_Teague@okep.uscourts.gov">Trina_Teague@okep.uscourts.gov</a> . (tah, USPO Clerk) (Entered: 11/23/2015)
01/20/2016	<u>53</u>	ORDER by District Judge James H. Payne: denying <u>51</u> Motion for Reduction of Sentence (USSC Amendment) as to Nelson Chamizo Torres (cjt, Deputy Clerk) (Entered: 01/20/2016)
03/21/2016	<u>54</u>	NOTICE OF APPEAL to Circuit Court (Re: <u>53</u> Order Ruling on Motion for Reduction of Sentence(USSC Amendment)) as to Nelson Chamizo Torres (cjt, Deputy Clerk) (Entered: 03/22/2016)
03/23/2016	<u>55</u>	Transmission of Notice of Appeal and Docket Sheet to USCA with copy of <u>54</u> Notice of Appeal and <u>53</u> Order (Re: <u>54</u> Notice of Appeal to Circuit Court ) as to Nelson Chamizo Torres. Preliminary record transmitted to 10th Circuit Court of Appeals electronically. (jcb, Deputy Clerk) (Entered: 03/23/2016)
03/23/2016		***Remark: Pro Se Appeal Packet mailed to Plaintiff (Re: <u>54</u> Notice of Appeal to Circuit Court ) as to Nelson Chamizo Torres (jcb, Deputy Clerk) (Entered: 03/23/2016)
03/23/2016	<u>56</u>	APPEAL NUMBER INFORMATION from Circuit Court assigning Case Number 16–7017 (Re: <u>54</u> Notice of Appeal to Circuit Court ) as to Nelson Chamizo Torres (rcs, Deputy Clerk) (Entered: 03/23/2016)
04/25/2016	<u>57</u>	LETTER from Circuit Court regarding deadlines and record on appeal (Re: <u>54</u> Notice of Appeal to Circuit Court ) as to Nelson Chamizo Torres (jcb, Deputy Clerk) (Entered: 04/25/2016)
04/29/2016	<u>58</u>	RECORD on Appeal Sent to Circuit Court (Record includes: Volume 1 – Pleadings #36, 51, 53 and 54; Volume 2 – Sealed Presentence Report, Statement of Reasons and Report on Applicability) Record on Appeal transmitted to 10th Circuit Court of Appeals electronically. (Re: <u>54</u> Notice of Appeal to Circuit Court ) as to Nelson Chamizo Torres (jcb, Deputy Clerk) (Entered: 04/29/2016)
04/29/2016		***Remark: Notice of receipt of Record on Appeal by 10th Circuit Court of Appeals (Re: <u>54</u> Notice of Appeal to Circuit Court, <u>58</u> Appeal Record Sent, ) as to Nelson Chamizo Torres (jcb, Deputy Clerk) (Entered: 05/02/2016)
05/06/2016		***Remark: Motion for Informa Pauperis received by this Court. At the direction of the 10th Circuit, the Motion was forwarded to 10th Circuit Court of Appeals electronically. as to Nelson Chamizo Torres (jcb, Deputy Clerk) (Entered: 05/06/2016)
06/17/2016	<u>59</u>	MOTION to Appoint Attorney for Eligibility Under Supreme Court Decision in "Johnson v United States" Case by Nelson Chamizo Torres. (neh, Deputy Clerk) (Entered: 06/20/2016)

07/12/2016	<u>60</u>		MANDATE from Circuit Court dismissing appeal (Re: <u>54</u> Notice of Appeal to Circuit Court) as to Nelson Chamizo Torres (With attachments) (cjt, Deputy Clerk) (Entered: 07/18/2016)
03/14/2017	<u>61</u>		ORDER by District Judge James H. Payne: dismissing <u>59</u> Motion for Appointment of Counsel as to Nelson Chamizo Torres. (tls, Deputy Clerk) (Entered: 03/14/2017)
03/14/2017	<u>62</u>		JUDGMENT by District Judge James H. Payne as to Nelson Chamizo Torres. (tls, Deputy Clerk) (Entered: 03/14/2017)
01/24/2022	63		<b>MINUTE ORDER</b> by Court Clerk: At the direction of the Court, this case is hereby reassigned to District Judge John F. Heil, III as to Nelson Chamizo Torres ONLY. All documents filed in this case in the future shall reflect the new case number to CR-04-33-01-JFH. (ndd, Deputy Clerk) (Entered: 01/24/2022)
01/24/2022	<u>64</u>		TRANSFER by District Judge John F. Heil, III of Jurisdiction of Probationer or Supervised Releasee to the Northern District of California as to Nelson Chamizo Torres. (ndd, Deputy Clerk) (Entered: 01/24/2022)

34 90

## UNITED STATES DISTRICT COURT

Eastern

District of

Oklahoma

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

NELSON CHAMIZO TORRES

Case Number:

CR-04-00033-001-P

USM Number:

04253-063

Roger Hilfiger

Defendant's Attorney

FILED

JAN 31 2005

William B. Gehring  
Clerk, U.S. District Court

By

Deputy Clerk

## THE DEFENDANT:

☒ pleaded guilty to count(s) one of the Indictment☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21:841(a)(1) and 18:2	Possession with Intent to Distribute Cocaine	December 7, 2003	1

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to Title 18, Section 3553(a) of the United States Criminal Codes.☐ The defendant has been found not guilty on count(s) \_\_\_\_\_☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

January 21, 2005

Date of Imposition of Judgment

Signature of Judge

JAMES H. PAYNE, U.S. DISTRICT JUDGE

Name and Title of Judge

E.O.D. JAN 31 2005

Date



DEFENDANT: Nelson Chamizo Torres  
CASE NUMBER: CR-04-00033-001-P

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of: 210 months on Count one

- ☒ The court makes the following recommendations to the Bureau of Prisons:  
That the Bureau of Prisons evaluate the defendant and determine if the defendant is a suitable candidate for the Intensive Drug Treatment Program. Should the defendant be allowed to participate in the program, it is further recommended that the defendant be afforded the benefits prescribed and set out in 18 U.S.C. § 3621(e) and according to Bureau of Prisons' policy.

That the defendant be placed in a Bureau of Prisons facility as close to home as possible to facilitate family contact.

- ☒ The defendant is remanded to the custody of the United States Marshal.

- ☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_  
☐ as notified by the United States Marshal.

- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_  
☐ as notified by the United States Marshal.  
☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
a \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL



DEFENDANT: Nelson Chamizo Torres  
CASE NUMBER: CR-04-00033-001-P

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 48 months on Count one.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement; and
- 14) the defendant shall submit to urinalysis testing as directed by the Probation Office.

AO 245B (Rev. 12/03) Judgment in a Criminal Case  
Sheet 3C — Supervised Release

Judgment—Page 4 of 6

DEFENDANT: Nelson Chamizo Torres  
CASE NUMBER: CR-04-00033-001-P

### SPECIAL CONDITIONS OF SUPERVISION

The defendant shall participate in a program approved by the United States Probation Office for the treatment of narcotic addiction, drug dependency, or alcohol dependency, which will include testing to determine if he has reverted to the use of drugs or alcohol. If it is determined by the Probation Officer that the defendant is in need of a residential drug/alcohol treatment program, he shall participate in such treatment as directed by the Probation Officer and remain in the treatment facility until discharged.

DEFENDANT: Nelson Chamizo Torres  
CASE NUMBER: CR-04-00033-001-P

Judgment — Page 5 of 6**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 100.00	\$ 0	\$ 0

- ☐ The determination of restitution is deferred \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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**TOTALS** \$ \_\_\_\_\_ \$ \_\_\_\_\_

- ☐ Restitution amount ordered pursuant to plea \_\_\_\_\_
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Nelson Chamizo Torres  
CASE NUMBER: CR-04-00033-001-P

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A** ☐ Lump sum payment of \$ \_\_\_\_\_ due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B** ☒ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☒ F below); or
- C** ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D** ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E** ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** ☒ Special instructions regarding the payment of criminal monetary penalties:  
Said special assessment of \$100 shall be paid through the office of the United States Court Clerk for the Eastern District of Oklahoma, P.O. Box 607, Muskogee, OK 74402, and is due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.



**FILED**

Jan 07 2022

CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO**TRANSFER OF JURISDICTION**DOCKET NUMBER (*Tran. Court*)  
1086 6:04CR0033-001 JFHDOCKET NUMBER (*Rec. Court*)  
CR22-00008 SI

NAME AND ADDRESS OF PROBATIONER/SUPERVISED RELEASEE:  Torres, Nelson Chamizo	DISTRICT  Eastern District of Oklahoma	DIVISION	
	NAME OF SENTENCING JUDGE  James H. Payne		
	DATES OF PROBATION/SUPERVISED RELEASE:	FROM 03/04/2019	TO 03/03/2023

## OFFENSE

Possession with Intent to Distribute Cocaine, 21:841(a)(1) and 18:2

**PART 1 - ORDER TRANSFERRING JURISDICTION**

UNITED STATES DISTRICT COURT FOR THE "EASTERN DISTRICT OF OKLAHOMA"

IT IS HEREBY ORDERED that pursuant to 18 U.S.C. 3605 the jurisdiction of the probationer or supervised releasee named above be transferred with the records of the Court to the United States District Court for the NORTHERN DISTRICT OF CALIFORNIA upon that Court's order of acceptance of jurisdiction. This Court hereby expressly consents that the period of probation or supervised release may be changed by the District Court to which this transfer is made without further inquiry of this Court.\*

January 7, 2022

Date

  
 United States District Judge

\*This sentence may be deleted in the discretion of the transferring Court.

**PART 2 - ORDER ACCEPTING JURISDICTION**

UNITED STATES DISTRICT COURT FOR THE "NORTHERN DISTRICT OF CALIFORNIA"

IT IS HEREBY ORDERED that jurisdiction over the above-named probationer/supervised releasee be accepted and assumed by this Court from and after the entry of this order.

January 7, 2022

Effective Date

  
 United States District Judge